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FISCAL IMPACT STATEMENT

LS 6431

BILL NUMBER: HB 1055

NOTE PREPARED: Dec 2, 2005

BILL AMENDED:

SUBJECT: Food Establishments and Food Handlers.

FIRST AUTHOR: Rep. Duncan

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill removes conditions that certain organizations must meet to be exempt from the sanitary requirements for food establishments. The bill also provides that certain tax-exempt and religious organizations are exempt from the certified food handler requirements.

Effective Date: July 1, 2006.

Explanation of State Expenditures: *Sanitary Requirements for Food Establishments:* The role of the State Department of Health in enforcement of the sanitary standards is limited to inspections on state-owned properties such as the State Fairgrounds. The State Fair Board currently requires all participants involved in the sale of food items to comply with the sanitary requirements and to be inspected. The provisions of this bill would be expected to have limited impact on the level of resources used by the Department to enforce the sanitary requirements for food establishments.

Explanation of State Revenues: *Sanitary Requirements for Food Establishments:* This bill provides that certain nonprofit groups and organizations that have filed for an exemption from the State Gross Retail Tax with the Department of State Revenue (DOR) will no longer have to comply with certain requirements in order to be exempt from the Department of Health sanitary requirements for food establishments. (Current law specifies that these groups are exempt if members of the organization prepare and label the food that will be sold to the final consumer and that the organization have sales of food for no more than 30 days in a calendar year.) The fiscal impact to the state would be limited, if any.

Background Information: Monetary penalties provided under the State Department of Health rules

promulgated at 410 IAC 7-23-1 include fines that have a maximum penalty of up to \$1,000 per day for noncompliance with the sanitary requirements for food establishments. Certain violations may also be considered to be Class B misdemeanors. Civil penalties collected are deposited in the state General Fund or local health department fund.

The State Department of Health reported that they do not track how many nonprofit organizations file waivers of the exemption with the Department. The Department does not charge a fee for organizations filing waivers of exemption.

Certified Food Handler Provisions: This bill also provides an exemption for certain federally designated nonprofit organizations and religious organizations or auxiliaries of religious organizations from rules which require the use of certified food handlers. Current statute exempts certain nonprofit groups and organizations that have filed for an exemption from the State Gross Retail Tax with the Department of Revenue. Organizations that are not designated Section 501(c)(3) or religious organizations or auxiliaries of religious organizations would be required to comply with the certified food handler requirements if they have not filed for an exemption with the DOR or have lost the exemption due to lack of compliance with annual reporting requirements. The fiscal impact to the state would be the potential loss of monetary penalties for noncompliance with certified food handler requirements which otherwise might be collected from 501(c)(3) charities and religious organizations that do not maintain an exemption from the State Gross Retail Tax with the DOR.

Background Information: Monetary penalties provided under the State Department of Health rules promulgated at 410 IAC 7-22-19 include fines that have a maximum penalty of up to \$100 per day for noncompliance. The certified food handler requirements became effective January 1, 2005. Penalties collected are deposited in the state General Fund.

Explanation of Local Expenditures: Local health officers are responsible for the local enforcement of the sanitary requirements for food establishments and of the certified food handler requirements. Enforcement actions may be one of two options. The local health officer may (1) furnish evidence to the local prosecutor or (2) file a report with the State Department of Health. This bill would exempt certain nonprofit organizations that are currently required to comply with the requirements for sanitary conditions in food establishments, potentially relieving the local health officers from enforcement inspections of the State Department of Health rules. The State Department of Health reported that the number of organizations that must comply with the sanitary requirements for food establishment rules because they exceed the exemption parameters or that voluntarily file waivers of exemption with the local health officers is not known. This bill would also exempt certain nonprofit organizations, relieving the local health officers from enforcement of the State Department of Health rules regarding the requirement for the presence of certified food handlers.

Explanation of Local Revenues: Nonprofit organizations that are not exempt or that file waivers of exemption currently may be required to comply with local licensing requirements for retail food establishments that include an annual fee. The State Department of Health reported that some counties waive the fee for charitable organizations but that this is not a statewide practice. If a local ordinance requires a license fee, this bill would result in the loss of local license fee revenue. The amount of revenue affected by the provisions of this bill is not known.

State Agencies Affected: State Department of Health.

Local Agencies Affected: Local health officers.

Information Sources: State Department of Health.

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